

### **Remarks**

The present response is filed with a Request for Continued Examination (RCE) and is to the Office Action mailed in the above-referenced case on April 01, 2004, made Final. Claims 1-14 are presented for examination. Claim 4 is objected to due to informalities. Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claims 1-5 and 8-14 are provisional a rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-5, 8-14 of copending Application No. 09/333,218. Claims 6-7 are objected to as being dependent upon a rejected base claim, but the Examiner has indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and the rejection under 35 U.S.C. 112, second paragraph, as set forth in paragraph 5 of the instant Office Action, is removed.

Applicant has carefully studied the prior art presented by the Examiner and the Examiner's objections, rejections and statements in the instant Office Action. In response, applicant herein amends the claims to overcome the objections and rejections set forth.

Applicant accepts the Examiner's indicated allowability for claims 6-7. Applicant accordingly herein amends the language of the base claims to recite the method and apparatus for reallocating switching circuitry in a switching fabric, characterized in that switching channels in the switch plane are assigned to data ports via an allocation table stored in a memory, wherein the allocation table defines a relationship between data ports and data communication links. Claim 6 is accordingly herein canceled.

Independent claims 1 and 8 now recite the subject matter indicated as allowable by the Examiner, and are thereby no longer conflicting or coextensive

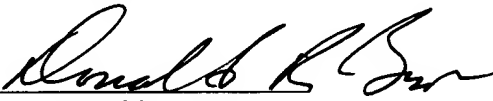
in scope with claims 1 and 8 of copending Application No. 09/333,218, thus overcoming the double patenting rejection, and rendering the claims patentably distinct over the prior art cited and applied by the Examiner.

Depending claim 6 has been canceled, claim 7 has been amended to correct the dependency, and depending claim 4 has been amended to overcome the Examiner's objection as set forth in item (4) in the Response to Amendment section of the instant Office Action. All of depending claims 2-5, 7 and 9-14 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims standing for examination are now patentable over the rejections and objections of the Examiner, applicant respectfully requests reconsideration and that the present case be passed quickly to issue.

Respectfully Submitted,

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